

REMARKS

Applicant thanks the Examiner for the very thorough consideration given the present application.

Claims 1, 2, 4-7, 9, 10, 12 and 17-27 are now present in this application. Claims 1, 9, 17, 23, 26 and 27 are independent. Claims 1, 9, 17, 23, 26 and 27 are amended. No new matter is involved. Support for the amendments to the claims is found throughout Applicant's originally filed disclosure, including paragraphs [0002], [0003], [0010], [0018], [0019] and [0025], and Figs. 2-6 and the portions of the main body of the specification which explain those figures.

Reconsideration of this application, as amended, is respectfully requested.

Personal Interview

Applicant acknowledges with appreciation the courtesies extended to Applicant's below-named representative, Mr. Robert J. Webster, during the personal interview conducted on October 23, 2007. During that interview, Applicant's representative explained the differences between Applicant's claimed invention and the applied art. Examiner Fletcher recommend including a feature in the claims of pre-specifying a file attribute, and indicated that such claims appear to possibly patentably define over the applied art. Examiner Fletcher also indicated that an update search will be required.

Rejection Under 35 U.S.C. § 102

Claims 1, 2, 4-6, 9, 10, 12 and 17-27 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent 6,810,441 to Habuto et al. ("Habuto"). This rejection is respectfully traversed.

A complete discussion of the Examiner's rejection is set forth in the Office Action, and is not being repeated here.

A prior art reference anticipates the subject matter of a claim when that reference discloses every feature of the claimed invention, either explicitly or inherently. In re Schreiber, 128 F.3d 1473, 1477, 44 USPQ2d 1429, 1431 (Fed. Cir. 1997) and Hazani v. Int'l Trade Comm'n, 126 F.3d 1473, 1477, 44 USPQ2d 1358, 1361 (Fed Cir. 1997). While, of course, it is possible that it is inherent in the operation of the prior art device that a particular element operates as theorized by the Examiner, inherency may not be established by probabilities or possibilities. What is inherent must necessarily be disclosed. In re Oelrich, 666 F.2d 578, 581, 212 USPQ 323, 326 (CCPA 1981) and In re Rijckaert, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993).

During patent examination the PTO bears the initial burden of presenting a *prima facie* case of unpatentability. In re Oetiker, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444(Fed. Cir. 1992); In re Piasecki, 745 F.2d 1468, 1472, 223 USPQ 785, 788(Fed. Cir. 1984).

Moreover, as stated in MPEP § 707.07(d), where a claim is refused for any reason relating to the merits thereof it should be "rejected" and the ground of rejection fully and clearly stated. Additionally, findings of fact and conclusions of law by the USPTO must be made in accordance with the Administrative Procedure Act, 5 U.S.C. § 706(A), (E) (1994). Zurko v. Dickinson, 527

U.S. 150, 158, 119 S.Ct. 1816, 1821, 50 USPQ2d 1930, 1934 (1999).

A claim limitation is inherent in the prior art if it is necessarily present in the prior art, not merely probably or possibly present. Rosco v. Mirro Lite, 304 F.3d 1373, 1380, 64 USPQ2d 1676 (Fed. Cir. 2002). The dispositive question regarding anticipation is whether one skilled in the art would reasonably understand or infer from the prior reference's teaching that every claim feature or limitation was disclosed in that single reference, Dayco Products, Inc. v. Total Containment, Inc., 329 F.3d 1358, 1368, 66 USPQ2d 1801 (Fed. Cir. 2003).

Applicant respectfully submits that independent claims 1, 9, 17, 23, 26 and 27, as amended, are not disclosed by Habuto. As amended, these claims positively recite combinations of features that include either a step of pre-specifying a file attribute or means for pre-specifying a file attribute, and either a step of displaying the structure of a directory of file data stored in a recording medium that contains a plurality of directories, wherein any directory is capable of containing files having different attributes, or a means for displaying the structure of a directory of file data stored in a recording medium that contains a plurality of directories, wherein any directory is capable of containing files having different attributes.

Habuto's invention is directed to digital cameras that can record files having different attributes in a memory medium, e.g., a flash card, and that is limited to only recording files with a specific attribute in a specific directory, being programmed not to record files with different attributes in a the same directory. Habuto's Fig. 1, for example, shows the one-to-one correspondence of a specific directory with files of a specific attribute that can be recorded therein. Habuto also does not display directories with selected attributes, as claimed.

Habuto's disclosure is substantially different from Applicant's disclosed and claimed invention, which is used to efficiently displaying the structure of a directory of file data stored in a recording medium that contains a plurality of directories, wherein any directory is capable of containing files having different attributes.

Thus, reconsideration and withdrawal of this rejection of claims 1, 2, 4-6, 9, 10, 12 and 17-27 are respectfully requested.

Accordingly, this rejection is improper and should be withdrawn.

Additional Cited References

Because the remaining references cited by the Examiner have not been utilized to reject the claims, but have merely been cited to show the state of the art, no comment need be made with respect thereto.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone Robert J. Webster, Registration

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No. 46,472, at (703) 205-8076, in the Washington, D.C. area.

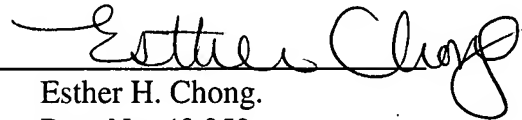
Prompt and favorable consideration of this Substitute Amendment is respectfully requested.


If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Date: November 19, 2007

Respectfully submitted,

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